

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

EDWARD H. ROBERTS
Claimant

V.

MIDWEST MINERALS, INC.
Respondent

AND

**MIDWEST BUILDERS' CASUALTY
MUTUAL COMPANY¹**
Insurance Carrier

Docket No. 1,028,985

ORDER

This matter is before the Board on remand from the Kansas Court of Appeals. The underlying case concerned claimant's request for attachments for his prosthetic arm. The Kansas Court of Appeals' ruling stated, in part:

The Board found that the tools were not medical treatment and that they did not address a medical need. The Board stated: "Claimant's want for specialized tools to perform woodworking, car repair, metal work, sport shooting and fishing with greater ease does not equate with a reasonable medical need for such items."

We agree with the Board that some of the requested items serve no other purpose but to allow Roberts to perform his hobbies with more ease. For example, Roberts testified that he wanted the all purpose crank adapter so he could go fishing. Based on this testimony, Roberts failed to provide any other use of the all purpose crank adapter to show how it would relieve him of the effects of his injury. This is the case for six of the seven tools that Roberts requested. There was only one tool that could be considered an apparatus reasonably necessary to relieve Roberts of the effects of his injury. This device is the tool cradle standard shank. In describing how he would use this tool, Roberts testified how this tool was necessary to relieve him of the effects of his injury. For example, when asked what he would use the tool cradle standard shank for, Roberts explained that it would be used to hold a shovel. Roberts further explained how he had tried to shovel snow the previous winter but that he had broken his prosthetic arm because he did not have the proper tools to hold the shovel.

¹ A Kansas Court of Appeals case and prior Appeals Board decisions list Builders Assoc. Self-Insurers Fund of Kansas as the insurance carrier. The most recent Kansas Court of Appeals ruling lists the insurer as Midwest Builders' Casualty Mutual Company.

Here, the evidence indicated that Roberts sought some of the items for the purpose of enhancing his independence and convenience in pursuing his hobbies rather than for relieving him of the adverse effects of his injury. Nevertheless, Roberts properly showed how one of the requested tools was necessary to relieve him of the effects of his injury. As a result, we reverse the Board's order denying Robert's post-award request as to the tool cradle standard shank and remand the case to the Board to amend its order to allow post-award medical benefits for the tool cradle standard shank.

Affirmed in part, reversed in part, and remanded to the Board with directions.²

APPEARANCES

Richard D. Loffswold, Jr., of Girard, Kansas, appeared for claimant. Wade A. Dorothy, of Overland Park, Kansas, appeared for respondent.

CONCLUSIONS OF LAW

Insofar as the Kansas Court of Appeals instructed the Board to amend its prior order, there is no need for additional argument from the parties. The Board's charge is simply to enter an Award consistent with the findings made by the Kansas Court of Appeals. Simply put, claimant is entitled to the tool cradle standard shank. The Board modifies its prior Order: respondent is ordered to provide claimant with the tool cradle standard shank.

AWARD

WHEREFORE, the Board modifies its prior November 26, 2012 Order to conform with the Kansas Court of Appeals directive that claimant be awarded the tool cradle standard shank.

IT IS SO ORDERED.

Dated this _____ day of January, 2014.

² *Roberts v. Midwest Mineral, Inc.*, No. 109,116, 310 P.3d 1078 (unpublished Kansas Court of Appeals opinion filed Oct. 4, 2013).

BOARD MEMBER

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c: Richard D. Loffswold, Jr., Attorney for Claimant
rdl@ckt.net

Wade A. Dorothy, Attorney for Respondent and its Insurance Carrier
wade@thedorothylawfirm.com

Thomas Klein, Administrative Law Judge